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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 JOSEF LOUIS BOOTOW,  
11  
12 Plaintiff,

13 v.

14 COSTCO WHOLESALE  
15 CORPORATION, a Washington  
16 corporation; and DOES 1 to 50,  
17 inclusive,  
18 Defendants.

Case No. 8:22-cv-00636-JVS-JDEx

**STIPULATED PROTECTIVE ORDER**

Complaint Filed: October 28, 2021

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18 Based on the parties' Stipulation and for good cause shown therein, the Court  
19 finds and orders as follows.

20 **I. PURPOSES AND LIMITATIONS**

21 Discovery in this action is likely to involve production of confidential,  
22 proprietary, or private information for which special protection from public  
23 disclosure and from use for any purpose other than prosecuting this litigation may  
24 be warranted. Accordingly, the parties hereby stipulate to and petition the Court  
25 to enter the following Stipulated Protective Order. The parties acknowledge that  
26 this Order does not confer blanket protections on all disclosures or responses to  
27 discovery and that the protection it affords from public disclosure and use extends  
28 only to the limited information or items that are entitled to confidential treatment  
under the applicable legal principles. The parties further acknowledge, as set

**STIPULATED PROTECTIVE ORDER**

BOOTOW V. COSTCO WHOLESALE CORPORATION  
CASE NO. 8:22-CV-00636 CJC (JDEX)

1 forth in Section XIII(C), below, that this Stipulated Protective Order does not  
2 entitle them to file confidential information under seal; Civil Local Rule 79-  
3 5 sets forth the procedures that must be followed and the standards that must be  
4 followed and the standards that will be applied when a party seeks permission  
5 from the Court to file material under seal.

## 6 **II. GOOD CAUSE STATEMENT**

7 This action is likely to involve trade secrets, pricing lists, commercial,  
8 financial, technical and/or proprietary information for which special protection  
9 from public disclosure and from use for any purpose other than prosecution of  
10 this action is warranted. Such confidential and proprietary materials and  
11 information consist of, among other things: (1) confidential business methods  
12 and procedures; (2) information implicating third-party privacy rights; (3)  
13 confidential product formulations; (4) confidential and/or proprietary  
14 manufacturing and/or production specifications; and (5) information otherwise  
15 generally unavailable to the public, or which may be privileged or otherwise  
16 protected from disclosure under state or federal statutes, court rules, case  
17 decisions, or common law. Accordingly, to expedite the flow of information,  
18 to facilitate the prompt resolution of disputes over confidentiality of discovery  
19 materials, to adequately protect information the parties are entitled to keep  
20 confidential, to ensure that the parties are permitted reasonable necessary uses  
21 of such material in preparation for and in the conduct of trial, to address their  
22 handling at the end of the litigation, and serve the ends of justice, a protective  
23 order for such information is justified in this matter. It is the intent of the parties  
24 that information will not be designated as confidential for tactical reasons and  
25 that nothing be so designated without a good faith belief that it has been  
26 maintained in a confidential, non-public manner, and there is good cause why  
27 it should not be part of the public record of this case.

1 **III. DEFINITIONS**

2 A. Action: The instant action: *Bootow v. Costco Wholesale*  
3 *Corporation*,

4 Case No. 8:22-cv-00636-JVS-JDE

5 B. Challenging Party: A Party or Non-Party that challenges the designation  
6 of information or items under this order.

7 C. "CONFIDENTIAL" Information or Items: Information (regardless of  
8 how it is generated, stored or maintained) or tangible things that qualify for  
9 protection under Federal Rule of Civil Procedure 26(c), and as specified above in the  
10 Good Cause Statement.

11 D. Counsel: Outside Counsel of Record and House Counsel (as well as  
12 their support staff).

13 E. Designating Party: A Party or Non-Party that designates information or  
14 items that it produces in disclosures as "CONFIDENTIAL."

15 F. Disclosure or Discovery Material: All items or information, regardless of  
16 the medium or manner in which it is generated, stored, or maintained  
17 (including among other things, testimony, transcripts, and tangible  
18 things), that are produced or generated in disclosures or responses to  
19 discovery in this matter.

20 G. Expert: A person with specialized knowledge or experience in a matter  
21 pertinent to the litigation who has been retained by a Party or its counsel  
22 to serve as an expert witness or as a consultant in this Action.

23 H. House Counsel: Attorneys who are employees of a party to this Action.  
24 House Counsel does not include Outside Counsel of Record or any other  
25 outside counsel.

26 I. Non-Party: Any natural person, partnership, corporation, association, or  
27 other legal entity not named as a Party to this action.

28 J. Outside Counsel of Record: Attorneys who are not employees of a party

to this Action but are retained to represent or advise a party to this Action and have appeared in this Action on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party, and includes support staff.

K. Party: Any party to this Action, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and other support staffs).

L. Producing Party: A party or Non-Party that produces Disclosure or Discovery Material in this Action.

M. Professional Vendors: Persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

N. Protected Material: Any Disclosure or Discovery Material that is designated as "CONFIDENTIAL."

O. Receiving Party: A Party that receives Disclosure or Discovery Material from a Producing Party.

#### IV. SCOPE

A. The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal Protected Material.

B. Any use of Protected Material at trial shall be governed by the orders of the trial judge. This Order does not govern the use of Protected Material at trial.

#### V. DURATION

Event after final disposition of this litigation, the confidentiality obligations imposed by this Order shall remain in effect until a Designating Party agrees otherwise

1 in writing or a court order otherwise directs Final disposition shall be deemed to be the  
2 later of (1) dismissal of all claims and defenses in this Action, with or without  
3 prejudice, and (2) final judgment herein after the completion and exhaustion of all  
4 appears, rehearings, remands, trials, or review of this Action, including the time limits  
5 for filing any motions or applications for extension of time pursuant to applicable law.

6 **VI. DESIGNATING PROTECTED MATERIAL**

7 A. Exercise of Restraint and Care in Designating Material for Protection

8 1. Each Party or Non-Party that designates information or items for  
9 protection under this Order must take care to limit any such designation to specific  
10 material that qualifies under the appropriate standards. The Designating Party must  
11 designate for protection only those parts of material, documents, items, or oral or  
12 written communication that qualify so that other portion of the material, documents,  
13 items, or communications for which protection is not warranted are not swept  
14 unjustifiably within the ambit of this Order.

15 2. Mass, indiscriminate, or routinized designations are prohibited.  
16 Designations that are shown to be clearly unjustified or that have been made for an  
17 improper purpose (e.g., to unnecessarily encumber the case development process or  
18 to impose unnecessary expenses and burdens on other parties) may expose the  
19 Designating Party to sanctions.

20 3. If it comes to a Designating Party's attention that information or  
21 items that it designated for protection do not qualify for protection, that Designating  
22 Party must promptly notify all other Parties that it is withdrawing the inapplicable  
23 designation.

24 B. Manner and Timing of Designations

25 1. Except as otherwise provided in this Order (*see, e.g.,* Section  
26 B(2)(b) below), or as otherwise stipulated or ordered, Disclosure or discovery Material  
27 that qualifies for protection under this Order must be clearly so designated before the  
28 material is disclosed or produced.

1                   2.     Designation in conformity with this Order requires the following:

2                   a.     For information in documentary form (e.g., paper or  
3 electronic documents, but excluding transcripts of depositions or other pretrial or trial  
4 proceedings), that the Producing Party affix at a minimum, the legend  
5 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that  
6 contains protected material. If only a portion or portions of the material on a page  
7 qualifies for protection, the Producing Party also must clearly identify the protected  
8 portions(s) (e.g., by making appropriate markings in the margins).

9                   b.     A Party or Non-Party that makes original documents  
10 available for inspection need not designate them for protection until after the inspecting  
11 Party has indicated which documents it would like copied and produced. During the  
12 inspection and before the designation, all of the material made available for inspection  
13 shall be deemed “CONFIDENTIAL.” After the inspecting Party has identified the  
14 documents it wants copied and produced, the Producing Party must determine which  
15 documents or portions thereof, qualify for protection under this Order. Then, before  
16 producing the specified documents, the Producing Party must affix the  
17 “CONFIDENTIAL legend” to each page that contains Protected Material. If only a  
18 Portion or portions of the material on a page qualifies for protection, the Producing  
19 Party also must clearly identify the protected portions(s) (e.g., by making appropriate  
20 markings in the margins).

21                   c.     For testimony given in depositions, that the Designating  
22 Party identify the Disclosure or Discovery material on the records, before the close of  
23 the deposition all protected testimony.

24                   d.     For information produced in form other than document and  
25 for any other tangible items, that the Producing Party affix in a prominent place on the  
26 exterior of the container or containers in which the information is stored the legend  
27 “CONFIDENTIAL.” If only a portion or portions of the information warrants  
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1 protection, the Producing Party to the extent practicable, shall identify the protected  
2 portions(s).

3 C. Inadvertent Failure to Designate

4 1. If timely corrected, an inadvertent failure to designate qualified  
5 information or items does not, standing alone, waive the Designating Party's right to  
6 secure protection under this Order for such material. Upon timely correction of a  
7 designation, the Receiving Party must make reasonable efforts to assure that the  
8 material is treated in accordance with the provisions of this Order.

9 **VII. CHALLENGING CONFIDENTIALITY DESIGNATION**

10 A. Timing of Challenges

11 1. Any party or Non-Party may challenge a designation of  
12 confidentiality at any time that is consistent with the Court's Scheduling Order.

13 B. Meet and Confer

14 1. The Challenging Party shall initiate the dispute resolution process  
15 under Local Rule 37.1 et seq.

16 C. The burden of persuasion in any such challenge proceeding shall be on  
17 the Designating Party. Frivolous challenges, and those made for an improper purpose  
18 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may  
19 expose the Challenging Party to sanctions. Unless the Designating Party has waived or  
20 withdrawn the confidentiality designation, all parties shall continue to afford the  
21 material in question the level of protection to which it is entitled under the Producing  
22 Party's designation until the Court rules on the challenge.

23 **VIII. ACCESS TO AND USE OF PROTECTED MATERIAL**

24 A. Basic Principles

25 1. A Receiving Party may use Protected Material that is disclosed 24  
26 or produced by another Party or by a Non-Party in connection with this Action only  
27 for prosecuting, defending, or attempting to settle this Action. Such Protected Material  
28 may be disclosed only to the categories of persons and under the conditions described

1 in this Order. When the Action has been terminated, a Receiving Party must comply  
2 with the provisions of Section XIV below.

3           2.     Protected Material must be stored and maintained by a Receiving  
4 Party at a location and in a secure manner that ensures that access is 3 limited to the  
5 persons authorized under this Order.

6           B.     Disclosure of "CONFIDENTIAL" Information or Items

7           1.     Unless otherwise ordered by the Court or permitted in writing by  
8 the Designating Party, a Receiving Party may disclose any information or item 7  
9 designated "CONFIDENTIAL" only to:

10           a.     The Receiving Party's Outside Counsel of Record in this Action, as  
11 well as employees of said Outside Counsel of Record to whom it is 10 reasonably  
12 necessary to disclose the information for this Action;

13           b.     The officers, directors, and employees (including House Counsel)  
14 of the Receiving Party to whom disclosure is reasonably necessary for this Action;

15           c.     Experts (as defined in this Order) of the Receiving Party to whom  
16 disclosure is reasonably necessary for this Action and who have signed the  
17 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

18           d.     The Court and its personnel;

19           e.     Court reporters and their staff;

20           f.     Professional jury or trial consultants, mock jurors, and Professional  
21 Vendors. to whom disclosure is. reasonably necessary or this Action and who have  
22 signed the "Acknowledgment and Agreement to be Bound" attached as Exhibit A  
23 hereto;

24           g.     The author or recipient of a document containing the information  
25 or a custodian or other person who otherwise possessed or knew the information;

26           h.     During their depositions, witnesses, and attorneys for witnesses, in  
27 the Action to whom disclosure is reasonably necessary provided: (i) the deposing party  
28 requests that the witness sign the "Acknowledgment and Agreement to Be Bound;"



1 and (ii) they will not be permitted to keep any confidential information unless they sign  
2 the "Acknowledgment and Agreement to Be Bound," unless otherwise agreed by the  
3 Designating Party or ordered by the Court. Pages of transcribed deposition testimony  
4 or exhibits to depositions that reveal Protected Material may be separately bound by  
5 the court reporter and may not be disclosed to anyone except as permitted under this  
6 Stipulated Protective Order; and

7 i. Any mediator or settlement officer, and their supporting personnel,  
8 mutually agreed upon by any of the parties engaged in settlement discussions.

9 **IX. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED**  
10 **IN OTHER LITIGATION**

11 A. If a Party is served with a subpoena or a court order issued in other  
12 litigation that compels disclosure of any information or items designated in this Action  
13 as "CONFIDENTIAL," that Party must:

14 1. Promptly notify in writing the Designating Party. Such notification  
15 shall include a copy of the subpoena or court order;

16 2. Promptly notify in writing the party who caused the subpoena or  
17 order to issue in the other litigation that some or all of the material covered by the  
18 subpoena or order is subject to this Protective Order. Such notification shall include a  
19 copy of this Stipulated Protective Order; and

20 3. Cooperate with respect to all reasonable procedures sought to be  
21 pursued by the Designating Party whose Protected Material may be affected.

22 B. If the Designating Party timely seeks a protective order, the Party served  
23 with the subpoena or court order shall not produce any designated in this action as  
24 "CONFIDENTIAL" before a determination by the Court from which the subpoena or  
25 order issued, unless the Party has obtained the Designating Party's permission. The  
26 Designating Party shall bear the burden and expense of seeking protection in that court  
27 of its confidential material and nothing in these provisions should be construed as  
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1 authorizing or encouraging a Receiving Party in this Action to disobey a lawful  
2 directive from another court.

3 **X. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE**  
4 **PRODUCED IN THIS LITIGATION**

5 A. The terms of this Order are applicable to information produced by a Non-  
6 Party in this Action and designated as "CONFIDENTIAL." Such information produced  
7 by Non-Parties in connection with this litigation is protected by the remedies and relief  
8 provided by this Order. Nothing in these provisions should be construed as prohibiting  
9 a Non-Party from seeking additional protections.

10 B. In the event that a Party is required, by a valid discovery request, to  
11 produce a Non-Party's confidential information in its possession, and the Party is  
12 subject to an agreement with the Non-Party not to produce the Non-Party's confidential  
13 information, then the Party shall:

14 1. Promptly notify in writing the Requesting Party and the Non-Party  
15 that some or all of the information requested is subject to a confidentiality agreement  
16 with a Non-Party;

17 2. Promptly provide the Non-Party with a copy of the Stipulated  
18 Protective Order in this Action, the relevant discovery request(s), and a reasonably  
19 specific description of the information requested; and

20 3. Make the information requested available for inspection by the  
21 Make the information requested available for inspection by the Non-Party, if  
22 requested.

23 C. If the Non-Party fails to seek a protective order from this court within 14  
24 days of receiving the notice and accompanying information, the Receiving Party may  
25 produce the Non-Party's confidential information responsive to the discovery request.  
26 If the Non-Party timely seeks a protective order, the Receiving Party shall not produce  
27 any information in its possession or control that is subject to the confidentiality  
28 agreement with the Non-Party before a determination by the court. Absent a court

1 order to the contrary, the Non-Party shall bear the burden and expense of seeking  
2 protection in this court of its Protected Material.

3 **XI. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

4 A. If a Receiving Party learns that, by inadvertence or otherwise, it has  
5 disclosed Protected Material to any person or in any circumstance not authorized under  
6 this Stipulated Protective Order, the Receiving Party must immediately (1) notify in  
7 writing the Designating Party of the unauthorized disclosures, (2) use its best efforts  
8 to retrieve all unauthorized copies of the Protected Material, (3) inform the person or  
9 persons to whom unauthorized disclosures were made of all the terms of this Order,  
10 and (4) request such person or persons to execute the "Acknowledgment and  
11 Agreement to be Bound" that is attached hereto as Exhibit A.

12 **XII. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**  
13 **PROTECTED MATERIAL**

14 A. When a Producing Party gives notice to Receiving Parties that certain  
15 inadvertently produced material is subject to a claim of privilege or other protection,  
16 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil  
17 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure  
18 may be established in an e-discovery order that provides for production without prior  
19 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the  
20 parties reach an agreement on the effect of disclosure of a communication or  
21 information covered by the attorney-client privilege or work product protection, the  
22 parties may incorporate their agreement in the Stipulated Protective Order submitted  
23 to the Court.

24 **XIII. MISCELLANEOUS**

25 A. Right to Further Relief

26 Nothing in this Order abridges the right of any person to seek its modification  
27 by the Court in the future.

28 B. Right to Assert Other Objections

1 By stipulating to the entry of this Protective Order, no Party waives any right it  
2 otherwise would have to object to disclosing or producing any information or item on  
3 any ground not addressed in this Stipulated Protective Order. Similarly, no Party  
4 waives any right to object on any ground to use in evidence of any of the material  
5 covered by this Protective Order.

6 C. Filing Protected Material

7 A Party that seeks to file under seal any Protected Material must comply with  
8 Civil Local Rule 79-5. Protected Material may only be filed under seal pursuant to a  
9 court order authorizing the sealing of the specific Protected Material at issue. If a  
10 Party's request to file Protected Material under seal is denied by the Court, then the  
11 Receiving Party may file the information in the public record unless otherwise  
12 instructed by the Court.

13 **XIV. FINAL DISPOSITION**

14 A. After the final disposition of this Action, as defined in Section V, within  
15 sixty (60) days of a written request by the Designating Party, each Receiving Party  
16 must return all Protected Material to the Producing Party or destroy such material. As  
17 used in this subdivision, "all Protected Material" includes all copies, abstracts,  
18 compilations, summaries, and any other format reproducing or capturing any of the  
19 Protected Material. Whether the Protected Material is returned or destroyed, the  
20 Receiving Party must submit a written certification to the Producing Party (and, if not  
21 the same person or entity, to the Designating Party) by the 60 day deadline that (1)  
22 identifies (by category, where appropriate) all the Material that was returned or  
23 destroyed and (2) affirms that the Receiving Party has not retained any copies,  
24 abstracts, compilations, summaries or any other format reproducing or capturing any  
25 of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain  
26 an archival copy of all pleadings, motion papers, trial, deposition, and hearing  
27 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert  
28 reports, attorney work product, and consultant and expert work product, even if such

1 materials contain Protected Material. Any such archival copies that contain or  
2 constitute Protected Material remain subject to this Protective Order as set forth in  
3 Section V.

4 B. Any violation of this Order may be punished by any and all appropriate  
5 measures including, without limitation, contempt proceedings and/or monetary  
6 sanctions.

7 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**  
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9 Dated: August 31, 2022

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11 JOHN D. EARLY  
United States Magistrate Judge  
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of  
\_\_\_\_\_ [print or type full address], declare under penalty of perjury that  
I have read in its entirety and understand the Stipulated Protective Order that was  
issued by the United States District Court for the Central District of California on  
August 31, 2022, in case number 8:22-cv-00636-JVS-JDEx. I agree to comply with  
and to be bound by all the terms of this Stipulated Protective Order and I understand  
and acknowledge that failure to so comply could expose me to sanctions and  
punishment in the nature of contempt. I solemnly promise that I will not disclose in  
any manner any information or item that is subject to this Stipulated Protective Order  
to any person or entity except in strict compliance with the provisions of this Order. I  
further agree to submit to the jurisdiction of the United States District Court for the  
Central District of California for enforcing the terms of this Stipulated Protective  
Order, even if such enforcement proceedings occur after termination of this action. I  
hereby appoint \_\_\_\_\_ [print or type full name] of  
\_\_\_\_\_ [print or type full address and telephone number]  
as my California agent for service of process in connection with this action or any  
proceedings related to enforcement of this Stipulated Protective Order.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_